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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 20-33
The University of the District of Columbia
2020 Campus Plan
(4200 Connecticut Avenue, N.W.; Square 1964, Part of Lot 812)
July 26, 2021

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on June 21, 2021, to consider an application of The University of the District of Columbia (the “University” or “UDC” or “Applicant”) for review and approval of The University of the District of Columbia Campus Plan 2020-2029 (the “2020 Plan”). The Commission considered the application pursuant to Subtitle X, Chapter 1 of Title 11 of the District of Columbia Municipal Regulations (“DCMR”) (Zoning Regulations of 2016, the “Zoning Regulations,” to which all section references are made unless otherwise specified). The public hearing was conducted in accordance with the provisions of Subtitle Z, Chapter 4. The Commission **APPROVES** the Application, subject to the conditions below.

FINDINGS OF FACT

Notice

1. On December 18, 2019, the University mailed a Notice of Intent to Advisory Neighborhood Commission (“ANC”) 3F and to the owners of all property within 200 feet of the campus plan boundaries, as required by Subtitle Z § 302.6. (Exhibit [“Ex.”] 2D.) Pursuant to Subtitle Z § 302.8, representatives of the University made presentations to ANC 3F at its regular public meetings on September 15, 2020 and October 20, 2020. (Ex. 3.) In accordance with condition number 23 of Z.C. Order Nos. 11-02 and 11-02A, the University hosted a Campus Master Plan kickoff meeting on February 18, 2020. (Ex. 2D.)
2. On March 23, 2021, the Office of Zoning (“OZ”) sent notice of the May 6, 2021 public hearing to:
 - The Applicant;
 - The affected ANC 3F;
 - The affected Single Member District (“SMD”) 3F01;
 - The Office of Planning (“OP”);
 - The District Department of Transportation (“DDOT”);
 - The Department of Consumer and Regulatory Affairs (“DCRA”);
 - The Office of the Attorney General (“OAG”);

- The Ward 3 Councilmember; Chair of the Council; and the At-Large Councilmembers; and
 - Property owners within 200 feet of the Property. (Ex. 8.)
3. Pursuant to Subtitle Z § 402.1, OZ also published public notice of the May 6, 2021 hearing date in the *D.C. Register* on March 12, 2021 (68 DCR 002687 *et seq.*), as well as through the calendar on OZ’s website. (Ex. 6, 7.)
 4. On April 13, 2021, the Applicant and ANC 3F jointly requested a postponement of the Applicant’s hearing date from May 6, 2021 to either June 21, 2021 or June 24, 2021 to allow time for the Applicant and the ANC to continue their dialogue with each other and the community. This request was approved on April 13, 2021, and the public hearing was rescheduled for June 21, 2021. (Ex. 11.)
 5. On April 25, 2021, OZ sent notice of the rescheduled June 21, 2021 public hearing, to the parties listed in Finding of Fact (“FOF”) 2 above. (Ex. 16.) Pursuant to Subtitle Z § 402.1, OZ also published notice of the June 21, 2021 hearing in the *D.C. Register* on April 30, 2021 (68 DCR 004639 *et seq.*), as well as through the calendar on OZ’s website. (Ex. 13, 14.)
 6. Pursuant to Subtitle Z § 402.3, on April 1, 2021, the Applicant posted notice of the May 6, 2021 hearing on the Property. (Ex. 9A.) On April 2, 2021, the University requested a waiver of full compliance with the posting requirements of Subtitle Z § 402. The University stated in its request that its initial posting was made four days after the posting deadline required by Subtitle Z § 402.3 and did not include all of the interior buildings on campus, due to the University’s limited staff and resources and its desire to safeguard remaining staff during the COVID-19 health pandemic. (Ex. 9.) By affidavit, after the public hearing was rescheduled to June 21, 2021, the University submitted evidence on May 4, 2021 that the initial posting was updated to reflect the change in the public hearing date from May 6, 2021 to June 21, 2021. (Ex. 19.) On June 17, 2021, by affidavit, the University submitted evidence that the updated posting was maintained pursuant to Subtitle Z § 402.¹ (Ex. 31B.)

Parties

7. The parties to the case were the Applicant and ANC 3F. There were no requests for party status.

The Site

8. The property that is the subject of this application is the University’s main campus located at 4200 Connecticut Avenue, N.W. It is known as part of Lot 812 in Square 1964 (the “Property” or the “Van Ness Campus”). Jurisdiction over the Property was transferred to

¹ The Commission concluded that the waiver from full posting requirements was appropriate in light of the COVID-19 pandemic and given the alternate forms of notice of the public hearing provided by the University and the evidence that actual notice was provided to nearby property owners by the University.

the University from the federal government pursuant to a 1972 Transfer of Jurisdiction by the United States General Services Administration. (Ex. 3.)

9. The Van Ness Campus is located in the R-1-B zone. The adjoining portion of the Connecticut Avenue corridor is zoned MU-7, and surrounding residential areas are zoned R-1-B, R-2, and RA-4. The Van Ness Campus is designated Local Public Facilities on the Future Land Use Map of the Comprehensive Plan and Institutional Use on the Generalized Policy Map of the Comprehensive Plan. (Ex. 3.)
10. The Property is located in Northwest Washington, contains an area of approximately 21 acres, and is bounded generally by Yuma Street, N.W. to the north; Connecticut Avenue, N.W. to the east; Van Ness Street, N.W. to the south; and International Court, N.W. and a portion of the International Chancery Complex to the west. (Ex. 3, 3D.)
11. The core of the Van Ness Campus is located at its southern end, and consists of 10 academic and administrative buildings organized around Dennard Plaza, a large hardscaped plaza that connects many of these buildings. To the east of the campus core, at the intersection of Connecticut Avenue and Van Ness Street, is the student center, adjacent to the Van Ness-UDC Metrorail entrance. North of the campus core are buildings and space devoted to performing arts, including an auditorium, amphitheater, and music, dance, and theater space. Further to the north and west are athletic facilities, which include the athletic center, fields, and tennis courts. (Ex. 3, 3D.)
12. Immediately to the south of the Van Ness Campus is Intelsat's former administrative headquarters, which has been converted to the Whittle School and Studios, and immediately to the west is the International Chancery Center, which contains nearly 20 diplomatic buildings. Further to the north and west of the Van Ness Campus are low-density single-family dwellings. To the east across Connecticut Avenue are medium-density commercial buildings and high-density residential apartment buildings. (Ex. 3.)

The Application

13. UDC's existing campus plan and the further processing of its student center were adopted on July 29, 2011 (Z.C. Order Nos. 11-02 and 11-02A) (the "2011 Campus Plan"). The 2011 Campus Plan anticipated growth in the student population on the Van Ness Campus and proposed physical developments to support on-campus student life and sustainability. The 2011 Campus Plan was approved with conditions largely relating to the 6,500-student enrollment cap, on-campus student housing for up to 600 students, the University's responsibilities associated with student conduct, transportation, and parking management, and the design of the student center.
14. On December 21, 2020, the University submitted an application seeking special exception review and approval of a new campus plan for the Van Ness Campus for the period of 2020 through 2029 (the "2020 Plan"). The 2020 Plan was assigned Z.C. Case No. 20-33. (Ex. 3, 3A-3Z.) The 2020 Plan submission included the following exhibits:

- A campus aerial view; (Ex. 3A.)
 - A proposed campus entry via Van Ness Street plan; (Ex. 3AA.)
 - A campus wayfinding plan; (Ex. 3AB.)
 - Proposed campus wayfinding signage and site materials plans; (Ex. 3AC.)
 - Z.C. Order Nos. 11-02 and 11-02A; (Ex. 3B.)
 - *The Equity Imperative*, the University's strategic plan; (Ex. 3C.)
 - An existing conditions site plan; (Ex. 3D.)
 - Z.C. Order No. 11-02B; (Ex. 3E.)
 - A community context and zone district plan; (Ex. 3F.)
 - A campus topography map; (Ex. 3G.)
 - An existing campus building heights plan; (Ex. 3H.)
 - An open space plan; (Ex. 3I.)
 - An existing impervious surface plan; (Ex. 3J.)
 - An existing transit service plan; (Ex. 3K.)
 - An existing pedestrian circulation plan; (Ex. 3L.)
 - An existing bicycle conditions and moveDC bike network plan; (Ex. 3M.)
 - A campus parking distribution plan; (Ex. 3N.)
 - The University's 2020-2026 Capital Improvement Plan (CIP); (Ex. 3O.)
 - A proposed campus development plan; (Ex. 3P.)
 - A proposed campus building heights plan; (Ex. 3Q.)
 - A proposed pedestrian circulation plan; (Ex. 3R.)
 - A sustainability improvements plan; (Ex. 3S.)
 - A landscape improvement plan; (Ex. 3T.)
 - A campus perimeter improvement plan; (Ex. 3U.)
 - A campus building façade improvements plan; (Ex. 3V.)
 - Campus building façade improvements photos; (Ex. 3W.)
 - A campus building façade improvements illustration; (Ex. 3X.)
 - A proposed campus entry via Veazey Terrace plan; and (Ex. 3Y.)
 - A proposed campus entry via Windom Place plan (Ex. 3Z.) (collectively, the "Applicant's Statement.")
15. On May 12, 2021, the University submitted an updated version of its 2020 Plan, which incorporated responses to comments from OP and revised the existing campus building heights plan (Ex. 3H.) and proposed campus building heights plan (Ex. 3Q.) previously submitted with the Applicant's Statement. (Ex. 20, 20A-20B.)
16. On June 4, 2021, the University submitted a further updated version of its 2020 Plan with revisions to Sections 4.2, 6.4, 6.5, 8.4, and 9.5(a) of the 2020 Plan in response to additional comments from OP. In its submission cover letter, the University requested a waiver of full compliance with Subtitle Z § 401.5, which prohibits applications from being modified less than 20 days prior to the public hearing. Since the public hearing was scheduled for June 21, 2021, all supplemental submissions were required to be filed by June 1, 2021. However, the University stated it did not receive all comments from OP until after June 1, 2021, and therefore was requesting a waiver to submit its revised 2020 Plan to respond to those

comments. (Ex. 25, 25A.) The Commission concluded that the waiver was appropriate since it allowed time for the Applicant to respond to OP's latest comments.

17. On June 4, 2021, the University submitted its draft Comprehensive Transportation Review ("CTR") in support of the 2020 Plan. (Ex. 24A1, 24A2.) The CTR was previously submitted to DDOT for review on March 22, 2021. On July 1, 2021, the University submitted its Transportation Demand Management ("TDM") plan and Performance Monitoring Plan ("PMP") to accompany the 2020 Plan. (Ex. 40B.)

Applicant's Statement

18. In its 2020 Plan, the University sets forth its vision to transform the Van Ness Campus into a flagship institution that will be competitive with other top tier academic institutions, while continuing to meet the comprehensive post-secondary education needs of the residents of the District of Columbia. The 2020 Plan calls for establishing the Van Ness Campus as a landmark main campus hub emerging as an important economic engine for the District of Columbia and the region. (Ex. 3, 20A, 25A.)
19. The goals of the 2020 Plan are as follows: optimizing the utilization of technical facilities and learning environments both within the classroom and throughout the Van Ness Campus; providing an environment for cultural exchange, effectively harnessing technology within campus boundaries as well as across the District of Columbia; enabling an efficient and reliable infrastructure that supports academic and administrative activities; utilizing its physical presence to engage and enliven the surrounding community, in a manner that contributes to the vitality of the surrounding Connecticut Avenue commercial district, but also manages the impact of the University on surrounding residential communities; promoting transportation solutions that take into account the ready access of public transportation to the University and the strategic commitment to sustainable development that stresses use of public transit over private vehicles; integrating a philosophy of environmentally sustainable management into aspects of the University's physical character and operations; and furthering opportunities for community engagement through its academic, fitness, and cultural facilities. (Ex. 3, 20A, 25A.)
20. The 2020 Plan incorporates six main changes to the Van Ness Campus: (1) modestly increase population in students, faculty, and staff that support the change to a selective admissions flagship institution; (2) modernize and upgrade existing academic buildings and facilities; (3) create more efficient academic spaces in existing buildings; (4) identify potential building sites on the Van Ness Campus; (5) propose upgrades and improvements to vehicular access area; and (6) identify and propose upgrades to on-campus public spaces and wayfinding. (Ex. 3, 20A, 25A.)

Community Engagement and the Development of the 2020 Plan

21. Beginning in early 2020, the University hosted community meetings to gain external stakeholder feedback, including a community kickoff meeting that was held on February 18, 2020. Several follow-up meetings were canceled due to the COVID-19 health

pandemic. However, while in-person direct community engagement was suspended during the COVID-19 health pandemic, the University continued to solicit community feedback through virtual meetings, including hosting a virtual community meeting on August 5, 2020. Presentations were also made to ANC 3F at its September and October meetings. (Ex. 2D, 3.) Subsequent to filing the 2020 Plan, the University continued to work with the ANC, including attending their April, May, and June meetings of 2021.

22. The University released a publicly available online external stakeholders survey to solicit input from neighbors, which had a total of 65 respondents. The University also conducted an internal survey and convened a university advisory group, consisting of students, faculty, and staff, the members of which were appointed by the President of the University, to provide their input and recommendations throughout the planning process. (Ex. 3, 20A, 25A.)

Student Enrollment and Faculty

23. The University initially proposed a student enrollment objective and cap of 6,500 students on a headcount basis. In response to feedback received from ANC 3F, the University increased this figure to 7,000 students on a headcount basis. As stated in the 2020 Plan, this enrollment increase is needed to adapt to changes in the economy, and workforce demographics and needs, and would permit the University to develop its programs and attract and retain talented students and faculty. The 2020 Plan states the proposed enrollment goal of 7,000 students would be easily accommodated within existing campus academic and administrative infrastructure. (Ex. 3, 20A, 25A.)
24. The University also estimates that the number of full-time faculty members at the Van Ness Campus will increase from 175 to 250 and that the number of adjunct faculty members will increase from 145 to 200, resulting in a total estimate of 450 faculty members under the 2020 Plan. (Ex. 3, 20A, 25A.)

Campus Development

25. The 2020 Plan identifies two possibilities for proposed on-campus housing: (1) renovating Building 44, which is situated toward the south of the Van Ness Campus along Van Ness Street, N.W., and converting it into a four-story residence hall; and (2) constructing a new building over the tennis courts on Site A, located at the northeast corner of the Van Ness Campus. The 2020 Plan states that in no event will the proposed on-campus housing provide a total of more than 600 beds. (Ex. 3, 20A, 25A.)
26. The 2020 Plan also identified three buildings where vertical enlargements may be feasible: Buildings 32, 42, and 43. New additions to these existing buildings would be used to accommodate academic and/or administrative spaces. (Ex. 3, 20A, 25A.)

27. The 2020 Plan states new construction for the entire 2020 Plan would provide approximately 160,000 square feet of gross floor area, of which approximately 120,000 will be for the on-campus housing, and approximately 40,000 square feet will be for the vertical level additions of existing buildings. (Ex. 3, 20A, 25A.)
28. The 2020 Plan also calls for the modernization and upgrading of existing academic buildings and facilities, which the Applicant noted will create a more vibrant on-campus experience. As described in detail in the 2020 Plan, the 2020 Plan accounts for the allotment of capital funds that would allow for the interior redesign of existing buildings such that the University would be able to provide more efficient academic spaces. (Ex. 3, 20A, 25A.)

Sustainability, Landscape, and Open Space

29. The University is a leader in sustainability, and sustainability is a core value in the 2020 Plan. The 2020 Plan includes proposals for stormwater management, including reducing hardscape by increasing pervious paving and narrowing walkways, as well as proposals to increase energy efficiency, including improving monitoring and measuring building energy performance, and phasing out the central power plant. (Ex. 3, 3S, 20A, 25A.)
30. The 2020 Plan proposes a substantial increase in green spaces. Potential locations for new outdoor spaces that may function as urban gardens/outdoor study areas, informal gathering spaces, and/or meditation spaces were identified. Additionally, the University's goal is to add 70,000 square feet of green roofs. The 2020 Plan also proposes the addition of green walls to the exterior of building walls, and the placement of new trees at Veazey Terrace and on Dennard Plaza. (Ex. 3, 3S, 20A, 25A.)
31. The University will comply with District requirements by achieving LEED Silver certification for all eligible new construction and substantial renovation projects using the appropriate LEED rating system that corresponds to the project's scope of work. Whenever feasible, the University will aspire to achieve LEED Gold or Platinum certification. (Ex. 3, 3S, 20A, 25A.)
32. The University seeks to express its mission through its physical appearance and establish a positive physical presence in the surrounding community. The 2020 Plan includes proposals that will strengthen the University's identity and visual appeal and improve the Van Ness Campus' urban design characteristics in future campus development projects through buildings, streetscape, and open spaces. The 2020 Plan contains recommendations to enhance the pedestrian flow through the Van Ness Campus. These recommendations include proposals to improve the pedestrian circulation on campus by improving walkways, adding pedestrian bridges, and incorporating vertical circulation to accommodate changes in grade. (Ex. 3, 3R, 3T, 20A.)

33. Improvements to the gateways of the Van Ness Campus are proposed at the intersection of Connecticut Avenue and Veazey Terrace in the 2020 Plan. This proposal includes recommendations to close Veazey Terrace to vehicle traffic and convert this area to a pedestrian-only plaza/entrance; use planting to screen services areas from Connecticut Avenue; and incorporate a vertical pedestrian transportation element and connect gateways at Veazey Terrace and Windom Place with a pedestrian sidewalk. (Ex. 3, 3Y, 3Z, 20A.)

Campus Character

34. The Van Ness Campus is the primary site of a growing university and should be recognized as a significant resource to the community. The University seeks to improve the physical expression of the Van Ness Campus by improving the appearance of its buildings, providing clear wayfinding, enhancing the streetscape, and establishing a cohesive landscaped open space system on the Van Ness Campus and its edges. (Ex. 3, 20A.)
35. Accordingly, the 2020 Plan proposes: to express the flagship identity of the Van Ness Campus via coordinated signage, art, and iconography; by improving the appearance of its buildings, providing clear wayfinding, enhancing the streetscape, and establishing a cohesive landscape open space system; to connect community and the campus population by exploring ways in which physical improvements to the Van Ness Campus can make the overall neighborhood more physically and economically attractive; and by utilizing the Van Ness Campus to activate Connecticut Avenue, N.W. through the incorporation of community-oriented retail. (Ex. 3, 20A, 25A.)
36. Specifically, the 2020 Plan proposes to design and implement a campus signage plan with effective graphic quality, which would include: street signage, exterior building signage, directional signs, pathway markings, and campus map kiosks. (Ex. 3, 20A, 25A.)

Transportation and Parking

37. The CTR consists of the multi-modal evaluation and assessment of current and future transportation operations with a focus on high quality site design, transit accessibility, and effective TDM planning. (Ex. 24A1, 24A2, 24B.)
38. The transportation goals of the 2020 Plan are to: enhance pedestrian safety; promote transit use; reduce automobile dependency; reinforce sustainability; improve campus circulation; and enhance pedestrian connectivity, including the introduction of pedestrian bridge connections. Based on these goals, the transportation component of the 2020 Plan seeks to accommodate current and future population levels on the Van Ness Campus without adding more parking supply or roadway capacity. The University will take advantage of its location within a high quality transportation network served by multiple modes to grow without investment in vehicular-based infrastructure. (Ex. 24A1, 24A2.)

39. Specifically, the 2020 Plan includes the following proposals: to modify Van Ness Street to reduce curb cuts and reduce crossing distances; to close Veazey Terrace to traffic and convert it to a pedestrian plaza; and to modify Windom Place to realign the southern curb, widen the sidewalk along the northern curb, and to convert a portion of a driveway to a pedestrian path. (Ex. 3, 24A1, 24A2, 24B.)
40. Additionally, as part of the 2020 Plan, one parking space is proposed to be removed, and long-term bicycle parking is proposed to be added. No changes to the amount of loading berths provided are proposed but loading access to the Veazey Terrace service court would be modified. (Ex. 3, 24A1, 24A2, 24B.)
41. Comprehensive TDM planning will remain a priority for the University over the term of the 2020 Plan. Based on the CTR and technical analysis conducted by Gorove Slade, the CTR concludes that the 2020 Plan is not expected to generate significant changes to roadway traffic volumes, operations, or geometries and therefore, the traffic impacts will be minimal. (Ex. 24A1, 24A2.)

Project Impacts

42. The University's 2020 Plan included the following information in satisfaction of the requirements set forth in Subtitle X § 101:

Subtitle X Section 101.1: Educational Use by a College or University: The University is operated as an academic institution of higher learning pursuant to D.C. Law 1-36, which consolidated the Federal City College, Washington Technical Institute, and District of Columbia Teachers College into the University of the District of Columbia. (Ex. 3, 20A, 25A.)

Subtitle X Section 101.2: The Uses Shall Be Located So They Are Not Likely to Become Objectionable to Neighboring Property Because of Noise, Traffic, Parking, Number of Students, or Other Objectionable Conditions: As described in greater detail below, the University demonstrated that the proposed uses were located so as not likely to become objectionable to neighboring property because of noise, traffic, parking, number of students, or other objectionable impacts. Specifically, the University submitted 18 draft conditions of approval to avoid the creation of adverse impacts as a result of the location of university uses in a residential zone. (Ex. 34.) These conditions of approval were supplemented and refined in response to community and agency comments. The 2020 Plan also incorporated revised transportation demand management commitments to alleviate any traffic impacts. (Ex. 40B.)

- *Noise:* The 2020 Plan states that activities within the campus plan boundaries are located to minimize objectionable impacts due to noise. The bulk of the campus to the west, south, and east is surrounded by commercial and institutional uses that are generally not sensitive to noise. Further, these buildings are largely devoted to academic and administrative uses that, by and large, do not generate noise levels that have the potential to become objectionable. To the north, a combination of landscaping,

topography, and building location keeps noise-generating activity generally away from the surrounding residential neighborhood. Service activity generally occurs in the area behind commercial development off Veazey Terrace, N.W.—directly from Connecticut Avenue, N.W. and, again, away from surrounding residential uses. Further, under the 2011 Campus Plan, the University located its student center on the southern portion of the Van Ness Campus, away from the residential neighborhood. The University does maintain a small number of off-campus residential units in nearby apartment buildings and carefully monitors and manages student activity to ensure they do not become objectionable due to noise; (Ex. 3, 20A, 25A.)

- *Traffic and Parking:* The Van Ness Campus is located immediately adjacent to the Van Ness-UDC Metrorail station, which provides a convenient and reliable alternative transportation mode for students, faculty, and staff alike. In addition, the location along Connecticut Avenue, N.W. offers additional mode options ranging from Metrobus service to walking and bicycling. Finally, the entrance to the parking facility is located on the institutional side of the Van Ness Campus off of Van Ness Street, N.W., which is directly accessed from Connecticut Avenue, N.W. and avoids the need for cars to enter the surrounding residential neighborhood. (Ex. 3, 20A, 25A.) Based on the CTR and technical analysis conducted by Gorove Slade, the CTR concludes that the 2020 Plan is not expected to generate significant changes to roadway traffic volumes, operations, or geometries and therefore, the traffic impacts will be minimal. (Ex. 24A1, 24A2.) No additional parking is proposed as a part of the 2020 Plan, which will avoid potential future impacts due to increases in the number of vehicular trips to and from the Van Ness Campus. In addition, the 2020 Plan states that the provision of on-campus housing will bring students closer to the Van Ness Campus and eliminate the need to commute to class or activities from elsewhere; (Ex. 3, 20A, 25A.)
- *Number of Students:* The 2020 Plan anticipates a modest increase in student population that will still remain well below the original planned capacity of the Van Ness Campus. The University initially proposed a student enrollment of 6,500 students on a headcount basis. In response to feedback received from ANC 3F, the University increased this figure to 7,000 students on a headcount basis. Given the availability of public transportation to the site, the number of students is not likely to become objectionable; and (Ex. 3, 20A, 25A.)
- *Other Objectionable Conditions:* The 2020 Plan states that the Van Ness Campus is not likely to become objectionable for any other reason. Indeed, the University states the 2020 Plan offers improvements to on-campus sustainability that will significantly improve the campus condition and provide a benefit to the surrounding communities as well. In addition, as the only public institution of higher education in the District, the University offers all District residents with an opportunity for an affordable local education at all stages of adult life. The strengthening of the offerings at the Van Ness Campus will result in benefits to the entire university system. (Ex. 3, 20A, 25A.)

Subtitle X Sections 101.3 and 101.4: Analysis of Incidental Uses: The Van Ness Campus includes a number of ancillary uses that actively support the academic, residential, and clinical components of the University. The nature and type of these uses on the Van Ness Campus are expected to evolve over the 10-year term of the 2020 Plan in order to meet the needs and mission of the University. These ancillary uses include a bookstore, and a currently vacant commercial space in the student center. Additionally, food services may provide services to the public. These ancillary uses are located interior to the Van Ness Campus, and as a result their operation do not impose objectionable impacts on non-university residential neighbors. The total floor area of all ancillary uses, including basement and cellar space, currently occupies less than seven percent of the total 2020 Plan gross floor area and is projected to occupy less than 10% of the proposed total 2020 Plan gross floor area over the term of the 2020 Plan. (Ex. 3, 20A, 25A.)

Subtitle X Sections 101.5 through 101.7 and 101.12: Campus Development Standards: The Van Ness Campus is located in the R-1-B Zone District. The maximum proposed development described in this plan results in a Floor Area Ratio (“FAR”) of 1.55, which is less than the 1.8 FAR permitted under the Zoning Regulations. Subtitle D § 207.6 permits that an institutional building at this location may rise up to a height of 90 feet. Campus buildings are proposed to a maximum height of 90 feet, consistent with these regulations. (Ex. 3, 20A, 25A.)

Subtitle X Section 101.8: Plan for Campus as a Whole, Showing the Location, Height, and Bulk, Where Appropriate of All Present and Proposed Improvements. The 2020 Plan includes a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements. (Ex. 3, 3A-3Z, 20A, 25A.)

Subtitle X Section 101.8(a): Buildings, Parking, and Loading: The 2020 Plan calls for approximately 160,000 square feet of gross floor area. The 2020 Plan and CTR detail the locations of all existing parking and loading facilities. (Ex. 3, 24A1, 24A2, 20A, 25A.)

Subtitle X Section 101.8(b): Screening, Signs, Streets and Public Utility Facilities: The 2020 Plan calls for substantial improvements to the campus roadway network, intended to improve pedestrian and vehicular movement through campus and minimize opportunities for pedestrian-vehicular conflicts. As an integral part of the 2020 Plan, the University will enhance the prominence of open spaces on the Van Ness Campus and the connections between them to maximize their use and enjoyment in keeping with the environmental integrity and historic context of the Van Ness Campus. A common language of paving materials, site furnishings, plantings, and supporting details such as lighting and building identification will help unify the campus environment. The University will enhance its visual and graphic communication on the Van Ness Campus through updates to its wayfinding system and related design guidelines as part of the implementation of the 2020 Plan. The University is currently served by a central heating and cooling plant that produces steam and chilled water to meet the needs of the University. This plant is scheduled to be phased out within the timeframe of the 2020 Plan. The modernizations of existing campus

buildings are purposefully designed with sustainable features to run independently. The IT infrastructure was recently comprehensively upgraded and future building modernizations will implement these additional capabilities into classroom technologies. Over the 10-year term of the 2020 Plan, the University will continue to evaluate energy and resource conservation measures, and will specifically explore future systems upgrades which could enhance capacity and efficiency without adversely impacting the Van Ness Campus and surrounding neighborhood. (Ex. 3, 20A, 25A.)

Subtitle X Section 101.8(c): Athletic and Other Recreational Facilities: The 2020 Plan continues the University's efforts to improve its athletic and recreational facilities for both intercollegiate and recreational uses. The 2020 Plan provides for the development of a new NCAA playing field in the southwestern portion of the Van Ness Campus to provide a long-term solution to the substantial wear-and-tear associated with using the existing single athletic field for multiple sports. (Ex. 3, 3A-3Z.)

Subtitle X Section 101.8(d): Description of All Activities Conducted or to be Conducted on the Campus, and the Capacity of All Present and Proposed Campus Development. The Van Ness Campus accommodates a wide range of uses and activities that not only fulfill the core mission of the University but also provide substantial opportunities and benefits for neighborhood and District residents. The University states that the capacity of all present and proposed campus development is sufficient to meet the needs of these activities for the 10-year term of the 2020 Plan. (Ex. 3, 3A-3Z, 20A, 25A.)

Subtitle X Sections 101.9: Further Processing for Specific Buildings, Structures, and Uses. No further processing of specific buildings, structures, and uses will be submitted at this time. (Ex. 3, 20A, 25A.)

Subtitle X Section 101.10: No Interim Use of Land or Improved Property Proposed. The University is not seeking any interim use of residentially-zoned land. (Ex. 3, 20A, 25A.)

Subtitle X Section 101.11: Compliance with The Comprehensive Plan. The University provided evidence that the existing and proposed uses detailed in the 2020 Plan are not inconsistent with the Future Land Use Map and Generalized Policy Map designations of the Van Ness Campus as a Local Public Facility and as an Institutional Use, respectively. The Comprehensive Plan calls for "change and infill" on university campuses consistent with their approved campus plans. The University also provided evidence that the 2020 Plan furthers multiple relevant policies of the District Elements of the Comprehensive Plan Policies, including Section EDU-3.1, Section EDU-3.2, Section EDU-3.3, and the Rock Creek West Planning Area Element. Further discussion of how the 2020 Plan furthers the relevant policies of the District Elements of the Comprehensive Plan Policies is set forth in the 2020 Plan. (Ex. 3, 20A, 25A.)

Subtitle X Section 101.13: Referral to the District of Columbia Office of Planning, Department of Transportation, and Department of Energy and Environment. The 2020 Plan was discussed with OP and DDOT prior to filing and was referred to OP and DDOT for their review and report. (Ex. 3, 26, 27.)

Subtitle X Section 101.14: Application is in Harmony with the Zoning Regulations. The 2020 Plan is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property. (Ex. 3.)

Subtitle X Section 101.15: Small Deviations from Approved Plans: The provisions of this section are not applicable in this campus plan case.

Subtitle X Section 101.16: A Further Processing of a Campus Building Shall Not be Filed Simultaneously with a Full Campus Plan Application. No further processing applications were filed simultaneously with the 2020 Plan application. (Ex. 3.)

Responses to Application

Office of Planning (“OP”)

43. As noted above, the University submitted two supplemental submissions in response to inquiries received from OP. (Ex. 20, 20A, 20B, 25, 25A.)
44. By report dated June 10, 2021, OP conditionally recommended approval of the 2020 Plan. OP reviewed the application under the special exception approval standards of Subtitle X § 101. OP recommended approval subject to four additional conditions: (1) the maximum student enrollment and faculty shall be accepted at the proposed 7,000 students and 450 faculty; (2) the 2020 Plan shall be valid for a period of 10 years; (3) the hours of operation for the tennis court are restricted to 7:00 a.m. to sunset every day; and (4) the University shall be permitted to lease up to 100 units within 1 mile of campus. (Ex. 27.)
45. With respect to the third condition set forth in FOF 44 above, OP in response to further conversations with the Applicant agreed that the condition could be modified to: The University shall limit hours of operation for the tennis court to 7:00 a.m. and sunset every day, except in situations where, during a tournament event, there is delay in the tournament activities due to inclement weather, and the tournament is paused during the inclement weather, and then resumes once the inclement weather has passed. During such situations, the tournament activity may continue past sunset but not later than 10:00 p.m. (Ex. 34; Transcript [“Tr.”] from June 21, 2021 hearing at pp. 80-81.)
46. The OP report noted that the 2020 Plan proposes floor additions to Buildings 32, 42, and 43, which would need in-depth structural evaluations, construction planning, and further processing approvals by the Commission if they were to proceed. The OP report also indicated that more details about the sites proposed for student housing (Building 44 and Site A) would need to be provided at the further processing stage as well. (Ex. 27.)

47. The OP report found that the 2020 Plan is not inconsistent with the Property's designations on the Future Land Use Map and Generalized Policy Map of the Comprehensive Plan. Moreover, OP stated that the 2020 Plan is consistent with the recommendations of the Van Ness Commercial District Action Plan because it "proposes adding streetscape elements, wayfinding signage system, lighting, and public art installations to improve the pedestrian experience along Connecticut Avenue" and "includes transforming the Windom Place entrance into a pedestrian-friendly entrance to the campus' theater district." (Ex. 27.) The OP report also stated that the 2020 Plan is not inconsistent with many of the Citywide and Rock Creek West Area Elements of the Comprehensive Plan. (Ex. 27.)
48. The OP report determined that the 2020 Plan should not result in a significant increase in objectionable noise-generating activities, since most of the buildings on campus are situated away from the neighboring residential community and/or separated by the Property's topography and landscaping. OP noted that most of the development consists of academic and administrative uses, and that the student center and athletic fields are located away from residential uses. OP stated its preference for Building 44 as the site for proposed student housing because its location would likely result in less impacts on neighboring residents. However, the OP report also noted that a student housing building on Site A would not be out of character with its surrounding uses, provided there was a sufficient setback and other buffering measures. (Ex. 27.)
49. The OP report stated that the 2020 Plan should result in minimal traffic and parking impacts and that the campus is well-served by the Van Ness-UDC Metrorail station, Metrobus, and bicycle facilities. OP noted that the University is not proposing any additional parking spaces and that parking demand may decrease after new on-campus student housing is built. (Ex. 27.)
50. The OP report indicated that the commercial uses associated with the 2020 Plan should have minimal impact on the outside residential neighborhood because they are mostly located inside the campus. While the student center is along the perimeter of the campus, it is within the area's Connecticut Avenue commercial district and therefore has no impact on neighboring residents. (Ex. 27.)
51. The OP report included comments from the District Department of Energy & Environment ("DOEE"), which were attached as Attachment I to the OP report. In its comments, DOEE encouraged the University to: (1) pair its HVAC replacement with weatherization and envelope improvements; (2) consider whether geothermal wells could be allocated in any additional spaces besides under the new practice field; (3) continue its leadership in green building design by adopting net-zero energy construction practices or, if net-zero energy cannot be achieved immediately, net-zero energy ready construction; (4) maximize use of all available roof space for solar energy production; (5) provide a greater number of "EV ready" parking spaces; (6) assess how climate change can affect the campus and incorporate resilient design strategies; (7) create a stormwater and Green Area Ratio master plan; and (8) exceed the minimum required stormwater retention volume. (Ex. 27.)

Department of Transportation (“DDOT”)

52. By report dated June 11, 2021, DDOT conditionally recommended approval of the University’s application. DDOT’s recommended conditions were:

- The Applicant will implement the TDM and Performance Monitoring Plans, for the life of the project. The plan will carry forward the TDM commitments from the previous 2011 Campus Plan with the modifications identified by DDOT. The Applicant will continue the shuttle program and will submit detailed annual performance monitoring reports to DDOT that will include additional information such as parking utilization. Prior to approval by the Zoning Commission, DDOT requested the Applicant submit a clean document outlining the final TDM and Performance Monitoring Plans for DDOT to review and concur with to be included in the final Zoning Order;²
- If approved by DDOT during permitting, the Applicant will fund the construction of the proposed access modifications described in DDOT’s report. If the Veazey Terrace, N.W. closure is approved by DDOT, the Applicant will maintain bicycle and pedestrian access to the Van Ness Campus in this location; and
- Each existing building to be renovated will install long-term bicycle parking and showers/lockers consistent with the amounts required in Subtitle C § 802.1, even if the renovations or building expansions would not typically trigger the bicycle parking requirement.

DDOT also concurred with the Applicant’s analysis that there will not be significant impacts to the roadway network due to the development changes contemplated in the 2020 Plan, assuming the TDM plan and PMP are in effect and there is no increase in parking. (Ex. 28.)

53. DDOT also noted that the Applicant is expected to work with DDOT further on the following elements of the 2020 Plan: (1) any proposed public space improvements, including curb and gutter, street trees and landscaping, streetlights, sidewalks, and other features within the public rights of way, are expected to be designed and built to DDOT standards, with careful attention paid to pedestrian and bicycle connections along the site’s perimeter and adjacent infrastructure; (2) coordinate with DDOT’s Planning and Sustainability Division (PSD) on the ongoing Van Ness Commercial Corridor Project and the Connecticut Avenue, N.W. Reversible Lane Safety and Operations Study; (3) coordinate with PSD on the proposed access modifications; (4) coordinate with PSD and goDCgo regarding the implementation of the TDM plan; and (5) submit future performance monitoring reports to DDOT’s TDM team for review and concurrence. (Ex. 28.)

² The University submitted a final DDOT-approved TDM plan and PMP at Exhibit 40B of the case record.

54. On June 18, 2021, the Applicant submitted a response to DDOT's recommendations and approval conditions. In its response, the Applicant agreed to submit annual performance monitoring reports to DDOT and submit a clean document containing its final TDM plan and PMP. The Applicant also agreed to continue coordinating with DDOT on the design and funding of proposed access modifications and stated it will maintain bicycle and pedestrian access at Veazey Terrace if it is closed to vehicles. The Applicant agreed to DDOT's proposed condition to install long-term bicycle parking and showers/lockers with each existing building renovation, but proposed that the bicycle parking and showers/lockers be located in a consolidated central location serving the entire campus instead of at each individual building. The Applicant agreed to all of DDOT's comments regarding continued coordination with the agency, as detailed in FOF 53 above. The Applicant also provided responses expressing general agreement with DDOT's recommendations on its transportation analysis. (Ex. 32A.)
55. On July 1, 2021, the Applicant submitted a final TDM plan and PMP, along with correspondence with DDOT indicating that DDOT is in agreement with the Applicant's final TDM plan and PMP at Exhibit 40B of the case record. (Ex. 40, 40A, 40B.)

ANC 3F

56. On June 17, 2021, ANC 3F submitted a report indicating that, in a publicly-noticed meeting on June 16, 2021, with a quorum of Commissioners present, ANC 3F voted 5-0-0 to adopt the resolution attached to the report supporting the adoption of the 2020 Plan, on the condition that UDC continue its commitment to a community engagement process involving the ANC and other community stakeholders over the next ten years as the University implements its 2020 Plan. The ANC requested that this community engagement process begin within 90 days of the Commission's approval of the 2020 Plan. (Ex. 30, 30A.)
57. ANC 3F's report affirmed its overall support for the 2020 Plan, but outlined the following concerns: (1) ANC 3F appreciates the increase in the student population objective to 7,000 students but remains concerned about the University's ability to meet this goal when student enrollment has significantly declined between 2010 and 2020; (2) ANC 3F remains concerned about UDC's capacity to house 600 students on campus; (3) ANC 3F supports many of the proposed transportation-related improvements but has questions and will continue to provide feedback on the proposed TDM plan; (4) ANC 3F would like condition number 27 from the 2011 Campus Plan to be carried over as a condition of the 2020 Plan;³ and (5) ANC 3F appreciates the formation of the community task force but would like to work with the University on jointly strengthening that task force. (Ex. 30, 30A.)

³ As noted at the June 21, 2021 public hearing, the Applicant's draft conditions for the 2020 Plan included condition number 27 from the 2011 Campus Plan order, which prohibits the University from leasing space in the student center to a tenant seeking to operate such space as a nightclub, lounge, or similar use. (Ex. 34; Tr. from June 21, 2021 hearing at p. 85.)

Public Hearing of June 21, 2021

58. The Commission held a public hearing on the Application pursuant to notice and convened via Videoconference at 4:00 pm on June 21, 2021.
59. At the June 21, 2021 public hearing, the Commission granted the Applicant's request for a waiver to allow for the submission of its hearing presentation (Ex. 33A, 33B.), the resume of Shamaly Alexander of R. McGhee & Associates (Ex. 33C.), and the Applicant's draft conditions of approval (Ex. 34.) into the record less than 24 hours prior to the start of the hearing. In addition, Mr. Daniel Solomon was accepted by the Commission as an expert in traffic engineering. (Tr. from June 21, 2021 hearing at pp. 6-8.)
60. At the public hearing, the University presented evidence and testimony from Ronald Mason, Jr., the University's President; David Franklin, the University's Chief Operating Officer; Avis Russell, the University's General Counsel; Daniel Solomon of Gorove Slade, qualified as an expert in traffic engineering; and Shamaly Alexander, of R. McGhee & Associates. (Tr. from June 21, 2021 hearing at pp. 11-78.)
61. President Mason testified that the community outreach process surrounding the 2020 Plan began in late 2019 and continued through the COVID-19 pandemic via virtual online meetings. President Mason stated that the University is "squarely focused on the need for on-campus housing within the next 10 years" and has made more affordable on-campus housing a goal of the 2020 Plan. (Tr. from June 21, 2021 hearing at pp. 11-20.)
62. Mr. Franklin testified that the 2020 Plan includes much needed infrastructure upgrades and modifications to internal spaces, with an emphasis on replacing the aging building systems, elevators, windows, and/or roofs of various campus buildings. In addition, the 2020 Plan will improve the University's visibility on Connecticut Avenue and enhance the student experience "through improved facilities and a greener, more connected campus." (Tr. from June 21, 2021 hearing at pp. 21-26.)
63. Ms. Alexander testified that the 2020 Plan incorporates sustainability initiatives such as a commitment to meeting a minimum LEED Silver certification for any reconstruction, gradually phasing out the campus' central heating/cooling power plant, and the proposed 70,000 square feet of green roofs and photovoltaic panels to be added to existing buildings. Ms. Alexander also discussed the "standardized wayfinding and branding package" created under the 2020 Plan, which would help solidify the identity of the Van Ness Campus. (Tr. from June 21, 2021 hearing at pp. 26-32.)
64. Mr. Solomon testified that the 2020 Plan takes advantage of the Van Ness Campus' transit-accessible location by improving connections to the Van Ness-UDC Metrorail station and automatically enrolling students in WMATA's U-Pass program. The 2020 Plan also includes conceptual improvements to pedestrian circulation both externally and internally, such as reconfiguring and consolidating the driveways under Building 44 leading from Van Ness Street, transforming Veazey Terrace into a pedestrian-only plaza and entrance, and proposing pedestrian improvements on Windom Place. Mr. Solomon stated that the

University has performed a comprehensive transportation review in close coordination with DDOT, which concluded that the 2020 Plan will enhance the surrounding area and non-automobile mobility. Mr. Solomon indicated that the University agrees with most of DDOT's requests as outlined in its report and was working with DDOT on finalizing the TDM plan and PMP. (Tr. from June 21, 2021 hearing at pp. 32-41.)

65. The Commission raised various questions in response to the University's testimony, including: (1) what the University's reasoning was for moving away from a centralized heating and cooling plant towards a decentralized system; (2) why the 2020 Plan locates long-term bicycle parking and showers in a central location instead of at each new or renovated building; (3) whether the tennis courts would remain in place if a student housing building were constructed on Site A; and (4) whether District regulations actually require new buildings on the Van Ness Campus to achieve a LEED certification rating level higher than the Silver rating proposed by the Applicant. (Tr. from June 21, 2021 hearing at pp. 42-79.)
66. In response to the Commission's questions, representatives of the University stated that the decision to decentralize the heating and cooling power plant was motivated by the high cost of maintaining the current power plant equipment and the opportunity to repurpose the existing power plant site for other uses. The University explained that the proposal for a central long-term bicycle and shower/locker location was based on the relatively consolidated size of the campus and the need for secure, long-term bicycle storage for full-time students. The University confirmed that the tennis courts at Site A would remain in place even if the site were developed with student housing and that details about how to retain the usability of the courts would be addressed at the further processing stage. The University stated it would examine whether a higher LEED rating level is required for the development proposed by the 2020 Plan. (Tr. from June 21, 2021 hearing at pp. 43-79.)
67. At the public hearing, OP testified that it reviewed the University's 2020 Plan and is supportive of the proposal with the conditions listed in its June 10, 2021 report. However, OP explained that based on coordination with the University, it had further refined the condition language concerning the hours of operations for the tennis courts to allow the courts to be used until 10:00 pm in situations where a tournament is delayed due to inclement weather.⁴ OP further stated that the 2020 Plan is not inconsistent with the Comprehensive Plan and its land use and policy recommendations. (Tr. from June 21, 2021 hearing at pp. 80-81.)
68. At the public hearing, DDOT testified that DDOT reviewed the University's 2020 Plan and is supportive of the proposal and is working with the University to refine its TDM plan and PMP. DDOT indicated that once the TDM plan and PMP are finalized and included as conditions in the Commission's final order, DDOT will have no objection to approval of the application. (Tr. from June 21, 2021 hearing at pp. 81-82.)

⁴ The Applicant's revised condition language concerning the tennis court hours was submitted as draft condition number 19 in Exhibit 34 of the record.

69. At the public hearing, ANC 3F chair David Cristeal testified that ANC 3F supports the 2020 Plan. Mr. Cristeal stated that several of the ANC's previous concerns about the 2020 Plan as noted in its resolution submitted at Exhibit 30A were satisfactorily addressed at the hearing. In addition, Mr. Cristeal stated that ANC 3F: (1) supports the increase in the student enrollment population to 7,000 students; (2) supports the increase in FAR; (3) remains concerned about UDC's capacity to provide on-campus housing for 600 students, but looks forward to working with the University on selecting the sites for student housing; (4) supports the proposed transportation-related improvements and understands that issues regarding the entrances on Windom Place and Veazey Terrace will be addressed at further processing; and (5) appreciates the formation of a community task force to focus on achieving the 2020 Plan's goals for the Van Ness Campus. Mr. Cristeal noted that ANC 3F was satisfied with the Applicant's carry over to the 2020 Plan of the condition from the 2011 Campus Plan regarding leasing of the student center. (Tr. from June 21, 2021 hearing at pp. 83-86.)
70. At the public hearing, the Commission heard testimony from Mary Beth Tinker, who testified as an individual in support of the application. Ms. Tinker is a resident of ANC 3F02 and a member of a volunteer group called the UDC Garden Club, which maintains gardens around the Van Ness Campus for use by students and the community. Ms. Tinker stated she supports the 2020 Plan for student housing, increasing the student population, adding green roofs, and promoting sustainability and equity goals of UDC, but wants to ensure that the current gardens on the Van Ness Campus are not disrupted and that the project includes additional space for the current garden project. The University responded that its community outreach liaison would reach out to Ms. Tinker to address her concerns. (Ex. 35; Tr. from June 21, 2021 hearing at pp. 88-90.)

Post-Hearing Submission

71. On July 14, 2021, the Applicant filed a post-hearing submission containing its draft order and a cover letter responding to several of the Commission's comments at the June 21, 2021 public hearing. The Applicant's filing stated that: (1) the University would comply with District requirements and achieve a LEED Silver certification for all eligible new construction and substantial renovation projects, but would aspire to achieve LEED Gold or Platinum where possible; (2) the University would provide a consolidated central location for long-term bicycle parking and showers/lockers and would look into whether providing long-term bicycle parking in each building is warranted at the further processing stage; and (3) in response to Ms. Tinker's concerns, one member of the UDC Garden Club will be included in the community task force as a proposed condition of the order. (Ex. 42, 42A.)
72. At its July 26, 2021 public meeting, the Commission noted it would continue to encourage the University to achieve a LEED Gold certification and construct on-site bicycle parking for all new or renovated buildings at the further processing stage, but that the Applicant's responses did not stand in the way of its overall approval of the 2020 Plan. The Commission also read into the record several corrective changes to the Applicant's draft conditions,

which are incorporated in the final conditions of this Order. (Tr. from July 26, 2021 meeting at pp. 90-96.)

CONCLUSIONS OF LAW

1. The Commission finds that the 2020 Plan meets the applicable campus plan requirements of the Zoning Regulations, based on the Applicant's Statement and the additional supplemental documents the Applicant submitted to the case record. The Commission concludes that the information provided in the case record and during testimony at the public hearing is sufficient for the Commission to find that the objectionable impacts associated with the 2020 Plan are capable of being mitigated. Therefore, the Commission concludes that the Applicant has met the burden of proof for approval of the 2020 Plan.
2. As directed by Subtitle X §§ 100 and 900, the Commission required the Applicant to satisfy the burden of proving the elements of Subtitle X §§ 101, 102, and 901, which are necessary to establish the case for a special exception for a college or university in the R-1-B, RA-1, RA-2, MU-3A, and MU-4 zone.
3. The Commission's discretion in granting a special exception is "limited to a determination whether the exception meets the requirements of the regulation." (*Glenbrook Road Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 605 A.2d 22, 30 (D.C. 1992).) The Applicant has the burden of showing, in this case, that its proposal meets the prerequisites enumerated in Subtitle X § 101 as well as satisfying the general standard for special exception approval set forth in Subtitle X § 901. Once the Applicant makes the requisite showing, the Commission "ordinarily must grant [its] application." *Id.* (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973).)
4. The Commission uses the following standard to determine whether objectionable impacts are present:

"The appropriate test to employ, we have said, is 'whether the proposed use would significantly increase objectionable qualities over their current levels in the area.' In approving a campus plan and its implementation, the Commission may impose reasonable restrictions to minimize any adverse impacts on the neighborhood, having 'due regard for the [u]niversity's needs and prerogatives'. Ultimately, the Commission's task is to achieve a 'reasonable accommodation . . . between the University and the neighbors' – an accommodation that does not substantially 'interfere with the legitimate interests of the later.'" *Spring Valley-Wesley Heights Citizens Ass'n v. DC Zoning Commission*, 88 A. 3rd 697, 705 (D.C. 2013) (citing *Glenbrook Road Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 605 A. 2d 22 (D.C. 1992)) and *Spring Valley-Wesley Heights Citizens Ass'n v. District of Columbia Zoning Commission*, 856 A. 2d 1174 (D.C. 2004).

5. Based upon the Findings of Fact and the record before the Commission, the Commission concludes that the Applicant has satisfied all standards set forth in Subtitle X §§ 101 and 102, as well as the general standard for granting a special exception in Subtitle X § 901; that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map; and that the requested relief will not tend to adversely affect the use of neighboring property.
6. Based on the Findings of Fact and the record before the Commission, the Commission concludes that the Applicant has satisfied the burden of proving that the university use, as described in the 2020 Plan and subject to the Conditions of Approval adopted in this Order, will satisfy the applicable requirements of a university use that it is not likely to become objectionable to neighboring property because of noise, traffic, parking, number of students, or other objectionable conditions.

ISSUES RELATED TO NOISE

7. Based on the Findings of Fact and Conditions of Approval adopted in this Order, the Commission concludes that the 2020 Plan is not likely to create objectionable conditions due to noise. The Commission finds persuasive the Applicant's arguments that the bulk of the campus to the west, south, and east is surrounded by commercial and institutional uses that are generally not sensitive to noise and that the use of landscaping, buffering, and building location generally keeps noise-generating activity away from the surrounding residential neighborhood and, as a result, potential adverse impacts related to noise on neighboring residential properties are mitigated. The Commission concludes that the uses within the campus boundaries have been located to minimize possible noise impacts.

ISSUES RELATED TO TRAFFIC AND PARKING

8. The Commission concludes that approval of the 2020 Plan is not likely to create objectionable conditions related to traffic. The application was supported by a CTR that was prepared by the Applicant's transportation engineering experts, which used a methodology that was approved by DDOT. The CTR itself is supported by DDOT. The CTR includes recommendations that will continue to enable the University to effectively minimize its impact and support the transportation network surrounding the University, focusing on the implementation of its TDM program to reduce single-occupancy vehicle trips to campus and continuing to work with neighborhood stakeholders to address transportation and parking related issues through the term of the 2020 Plan.

ISSUES RELATED TO NUMBER OF STUDENTS

9. The Commission concludes that the Applicant's proposed student enrollment maximum is not likely to create objectionable conditions.

ISSUES RELATED TO OTHER OBJECTIONABLE IMPACTS

10. In regard to the new development proposed in the 2020 Plan, the Commission concludes that all of the projects are appropriate for further processing applications.

“Great Weight” to the Recommendations of OP

11. Pursuant to § 13(d) of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)) and Subtitle Z § 405.8, the Commission must give “great weight” to the recommendations of OP. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1086 (D.C. 2016).)
12. OP submitted a written report recommending approval of the 2020 Plan, subject to certain conditions. The Commission finds persuasive OP’s recommendation that the Commission approve the Application and therefore concurs in that judgment. (Ex. 27.) The Commission adopts OP’s recommended conditions, including the revised condition language regarding tennis court hours agreed to by the Applicant in Ex. 34, condition 19 of the case record.

“Great Weight” to the Written Report of ANC 3F

13. Pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) and Subtitle Z § 406.2, the Commission must give “great weight” to the issues and concerns raised in the written report of the affected ANC. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978).)
14. ANC 3F submitted a written report recommending approval of the 2020 Plan (Ex. 30, 30A.), subject to one condition requiring that the University’s community engagement process begin within 90 days of the Commission’s approval of the 2020 Plan. The Commission finds persuasive ANC 3F’s recommendation that the Commission approve the Application and therefore concurs in that judgment. The Commission adopts ANC 3F’s recommended condition as the Community Outreach conditions of this Order require the University-Community Task Force to meet quarterly.

DECISION

In consideration of the record and the Findings of Fact and Conclusions of Law herein, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the campus plan application, subject to the following guidelines, conditions, and standards:

Campus Plan Term

1. The Campus Plan shall be valid for a period of 10 years.

Enrollment

2. For the duration of the 2020 Plan, the maximum enrollment on the Van Ness Campus shall not exceed 7,000 students and 450 faculty.
3. The University shall provide ANC 3F with its Van Ness Campus enrollment by November 1st (for fall semester enrollment), April 15th (for spring semester enrollment), and August 1st (for summer enrollment).

Housing

4. The University may construct the proposed on-campus housing as described in the 2021 Campus Plan, subject to further processing review and approval pursuant to Subtitle X § 101 of the Zoning Regulations:
 - a. The location shall be within the area identified on Tab P (Ex. 3P) of the University's December 21, 2020 campus master plan submission;
 - b. The number of stories, gross floor area, and lot coverage shall be generally consistent with the development summary indicated in Section 4.2 of the University's December 21, 2020 Campus Master Plan submission filed in the record in this case as Exhibit 3, as revised by the University's May 12, 2021 and June 4, 2021 supplemental submissions filed in the record in this case as Exhibits 20A, 20B, and 25A; and
 - c. As a part of the further processing application, the University shall provide the following documentation:
 - i. Interim report on student enrollment and faculty/staff counts;
 - ii. Interim report on the implementation of the student conduct measures detailed in conditions 7-9; and
 - iii. Interim report on transportation issues, including:
 1. Information on implementation of the transportation demand management plan detailed in condition 11, including mode split data; and
 2. Information regarding utilization of campus parking resources as well as implementation of the parking policy detailed in condition 11; and
 - iv. Interim report on perimeter improvements detailed in conditions 16 and 17.

5. The University shall provide the community with notice and an opportunity to review the proposed design of the on-campus housing at least 60 days prior to filing of the application for further processing:
 - a. Notice of the University's intent to file the application ("Notice of Intent") shall be provided by U.S. Mail to ANC 3F and all owners of all property within 200 feet of the campus. In addition, the Notice of Intent shall be provided by U.S. Mail to all residents within approximately one block of Lot 812.⁵ The Notice of Intent shall state that the University intends to file an application to secure further processing approval to construct dormitories on University property, and shall provide the proposed number of beds, maximum square footage, description of common areas, and planned pedestrian and vehicular access to the dormitories. In addition, the Notice of Intent shall provide a website address (URL) where more information about the proposed dormitories may be found, and the contact information (name, phone, and email) for a University representative that can be contacted for additional information. Finally, the Notice of Intent shall indicate the date, time, and location of the Preliminary Design Review meeting described below; and
 - b. At least 45 days prior to the filing of the application for further processing, the University shall hold an open community meeting to review the preliminary design of the housing with interested community members ("Preliminary Design Review"). This meeting shall be specifically noticed in the Notice of Intent, and shall also be noticed in the *Forest Hills Connection*, on neighborhood listservs, and on the University's website.
6. The proposed on-campus housing shall be limited to no more than 600 beds. The University shall maintain its existing off-campus leasing program but shall be limited to no more than 100 units within 1 mile of the University.

Student Conduct

7. All students at the Van Ness Campus, whether living on campus, off campus in housing leased directly by the University, shall be required to comply with the University Code of Conduct.
8. The University shall use disciplinary intervention for acts of misconduct committed by students (i.e., 'violations of the Code of Conduct) in the surrounding community (which shall mean within one mile of the University), regardless of whether the student lives on campus or off campus, and even if the students are not in properties owned or controlled by the University. The University shall act on incident reports submitted by persons

⁵ The "Nearby Residents" shall include all addresses along Upton, Van Ness, and Warren Streets, Veazey Terrace, and Windom Place between Reno Road/36th Street and 37th Streets; all residents along 36th Street and Reno Road between Upton Street and Yuma Street; all residents along Yuma Street between Connecticut Avenue and 37th Street; and all residents of 35th Street between Yuma Street and Alton Place. Notice shall also be provided to the Van Ness South Tenants Association, Van Ness North Condominium Association, and Van Ness East Cooperative Association.

including residents, ANC 3F, community associations, tenant associations, building management, the University's Office of Public Safety and Emergency Management, and the Metropolitan Police Department.

9. The University shall establish and maintain a relationship with the Metropolitan Police Department to secure referrals on all reports of complaints, infractions, or arrests of University students living on-campus or in off-campus University housing. The University shall maintain a log of all referrals received and all actions taken.

Transportation and Parking

10. The University shall manage its on-campus parking supply and encourage all students, faculty, staff, and visitors to use transit and other alternatives to single-occupancy vehicle through the implementation of the TDM and PMP measures detailed in conditions 11 and 12 below, for the life of the 2020 Plan unless otherwise stated.
11. The University shall continue to implement the following TDM measures to minimize any adverse impacts of University-affiliated traffic and parking:
 - UDC will continue designating a TDM Coordinator, who will implement, monitor, and market the TDM programs, provide personalized commuter counseling to help members of the UDC population understand their options, and act as a point of contact with DDOT, goDCgo, and Zoning Enforcement. UDC's TDM Coordinator will be Dr. LeVita Y. Bassett, the University's Director of Auxiliary Enterprises;
 - UDC will participate in WMATA's U-Pass program which offers unlimited Metrorail and Metrobus rides to students at a substantial discount, and which students are automatically enrolled in. UDC has already begun participating in this program;
 - UDC will continue adjusting parking rates in its main parking garage to help deter single-occupant driver parking and raise revenue for TDM programs. The student, faculty and staff rates will be adjusted periodically to maintain a peak occupancy level within the parking garage of 80-90% on a typical weekday. UDC will annually review parking rates and report them as part of the agreed-to Performance Monitoring Plan (PMP);
 - UDC will continue monitoring parking rate structures to deter non-UDC patrons (public) parking within the UDC garage at lesser rates than public garages in the Van Ness neighborhood;
 - Upon completion of the access and roadway modifications that reduce UDC's off-street parking supply from 837 to 836 spaces, UDC will establish 836 spaces as a parking cap. UDC will not add any net new parking spaces before the access and roadway modifications are completed. Over the life of the Campus Plan, UDC will look for opportunities to further reduce the supply of parking;

- UDC will work towards improving long-term employee and student non-SOV mode share over the 10-year life of the Campus Plan. As part of the agreed-to Performance Monitoring Plan (“PMP”), UDC will annually report mode splits and work with DDOT and goDCgo to improve employee and student non-SOV mode share over the 10-year life of the Campus Plan;
- Starting in the Fall 2021 semester, UDC will provide employees who wish to carpool with detailed carpooling information and refer them to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOC) or other comparable service if MWCOC does not offer this in the future. UDC will also designate a minimum of two preferential carpooling spaces and one preferential vanpooling space in a convenient location within the parking garage for employee use;
- Starting in the Fall 2021 semester, UDC will interact with car-sharing service providers to seek the placement of carsharing spaces within or near the Van Ness campus consistent with demand;
- Starting in the Fall 2021 semester, UDC will designate at least two preferred parking spaces for alternative fuel vehicles and provide at least two electric vehicle charging stations on campus;
- UDC will continue promoting pre-tax transit commuting benefits for faculty and staff via the SmartBenefits program. The number of UDC employees enrolled in SmartBenefits was 260 (approximately 24% of the 1,100 total employees) before COVID-19 and 82 during COVID-19. UDC will set a goal of having at least 50% of employees enrolled in SmartBenefits by the end of the Campus Plan (2029);
- Starting in the Fall 2021 semester, UDC will provide information about bicycle riding in the District of Columbia, bicycle routes between the Van Ness campus and major destinations, and bicycle parking locations on campus. UDC will incorporate quality bicycle parking into new buildings and at all new residence halls. UDC will consider adding more short-term bicycle parking outside existing buildings. UDC will market and encourage use of the existing Capital Bikeshare location on the Van Ness campus. UDC will reserve space for an additional future Capital Bikeshare location, possibly along Van Ness Street south of the Van Ness campus;
- Starting in the Fall 2021 semester, UDC will offer Capital Bikeshare’s University Membership program to students;
- UDC will continue making shower and changing facilities available to faculty, staff and students that wish to commute by bicycle;
- Starting in the Fall 2022 semester, UDC will provide long-term bicycle parking and showers/lockers in a consolidated central location serving the entire campus. At each Further Processing for individual buildings, UDC will demonstrate that the required amount of long-term bicycle parking and showers/lockers is provided either in this

consolidated location or in other locations on campus. UDC will also evaluate the utilization of the consolidated secure long-term bicycle parking facility as part of the annual Performance Monitoring Plan (PMP) and during each Further Processing. If data or employee and student surveys show that there is a desire for long-term bicycle parking to also be provided in buildings, UDC will do so as part of Further Processing; and

- Starting in the Fall 2021 semester, UDC's Transportation Coordinator will develop, distribute, and market various transportation alternatives and options to employees and students, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on relevant websites and in any relevant internal newsletters, communications, or displays. These materials will contain sections oriented to different users, including faculty/staff, students, and visitors. Any students living on-campus will be provided with a packet of information upon or prior to moving-in. New faculty/staff hires will be provided with a similar packet of information.

12. The Performance Monitoring Plan (PMP) is the University's plan to track progress towards its Transportation Demand Management (TDM) goals. The PMP is comprised of mode split surveys of students, internal University data, and manual counts of vehicle and bicycle parking inventory and occupancy which will be compiled into annual monitoring reports submitted to DDOT. The purpose of the monitoring reports is to make data-driven decisions about which TDM measures, if any, need to be adjusted to meet TDM goals. The PMP will begin in the Fall 2021 semester and continue for the life of the Campus Plan. The monitoring reports will include details regarding the following:

- Mode split of the campus population for trips to campus, broken down by students and employees;
- Number of student, staff, and faculty parking permits sold;
- Student, staff, and faculty parking permit rates;
- Daily parking rates;
- Number of registered carpools;
- Number of employees enrolled in WMATA SmartBenefits;
- Number and location of car-sharing spaces, alternative fuel vehicle parking spaces, and electric vehicle charging stations on campus;
- Number and location of showers and changing facilities available on campus for bicycle commuters;
- Inventory and occupancy of all off-street UDC parking facilities;

- Inventory and occupancy of on-street parking within a quarter-mile walkshed of the campus; and
 - Inventory and occupancy of long-term and short-term bicycle parking spaces.
13. The University shall encourage all visitors attending special events on campus to use transit or park in University or other area parking facilities. The University shall work with area institutions and commercial parking operators as well as use attendant parking to provide additional parking as needed during these events. Non-University events in the Student Center ballroom shall be subject to the following additional conditions:
- a. For weekday non-University events that are likely to draw more than 100 persons, the University shall direct potential users to notify event guests that parking will not be available on campus or in the surrounding community and that driving is therefore discouraged. The University shall direct potential users to encourage event guests to travel to the Van Ness Campus by other means such as transit, bus, walking, or taxi:
 - i. For purposes of this condition, “weekday events” are events that begin between 8:00 a.m. and 4:00 p.m., Monday through Friday; and
 - b. For weeknight non-University events that are likely to draw more than 100 persons, such events shall not be permitted to begin between the hours of 5:00 p.m. and 7:00 p.m.
 - i. For purposes of this condition, “weeknight events” are events that begin after 5:00 p.m., Monday through Friday.
14. The University shall work with area institutions regarding the scheduling of special events expected to draw more than 100 visitors to the Van Ness Campus.
15. The University shall direct all construction traffic to avoid routes through the adjacent residential neighborhoods through contract provisions or similar mechanisms.

Veazey / Windom Improvements

16. Subject to availability of funding and other required approval from or coordination with District agencies, the University shall undertake the improvements detailed on Tab Y and Tab Z of the 2020 Plan (Ex. 3Y and Ex. 3Z). The University shall have the flexibility to modify the final design and layout of these improvements based on approval from or coordination with District agencies.
17. Following the issuance of a building permit and public space permit, the University shall use good faith efforts to work with District agencies and other stakeholders to promote the construction of improvements to the intersection of Veazey Terrace with Connecticut Avenue as shown in concept on Tab 3Y (Ex. 3Y) of the 2020 Plan.

Community Outreach

18. University-Community Task Force: The University shall continue a Task Force that includes representatives of the University officials, ANC 3F, residents of the surrounding Van Ness and North Cleveland Park neighborhoods (including residents of both the single-family neighborhoods and high-rise buildings near campus), and one member of the UDC Garden Club:
- a. The Task Force shall meet quarterly in order to encourage dialogue regarding campus planning, student conduct, traffic and parking, construction activity, and similar issues;
 - b. The meetings shall be open to the public and shall be noticed at least two weeks prior through advertisements in the *Forest Hills Connection*, on neighborhood listservs, and through the University's website. Notice of such meetings shall also be provided to authorized representatives of neighborhood community associations, tenant associations, or other building associations. Said notice shall identify the preliminary agenda for each meeting, though this preliminary agenda shall not preclude the discussion of additional issues or concerns;
 - c. The University shall keep minutes of all Task Force Meetings as well as a log of all attendees; and
 - d. Within one month of each Task Force meeting, the University shall circulate the minutes of the meeting to ANC 3F, authorized representatives of neighborhood or building associations, and any other participant requesting the minutes at the meeting. The University shall also post the minutes on its website.
19. The University shall offer a membership rate for the use of tennis courts and a daily rate for during open swim at the natatorium for non-University users who desire use of these facilities. The University shall limit hours of operation for the tennis court to 7:00 am and sunset every day, except in situations where, during a tournament event, there is delay in the tournament activities due to inclement weather, and the tournament is paused during the inclement weather, and then resumes once the inclement weather has passed. During such situations, the tournament activity may continue past sunset but not later than 10:00 p.m.


Student Center

20. The University shall not be permitted to lease space in the Student Center to a tenant seeking to operate such space as a nightclub, lounge, or similar use.


VOTE July 26, 2021: 5-0-0

(Michael G. Turnbull, Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, and Peter G. May to
APPROVE)

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 20-33 shall become final and effective upon publication in the *D.C. Register*; that is, on May 6, 2022.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 20-33A
Z.C. Case No. 20-33A
The University of the District of Columbia
(Modification of Consequence to an Approved Campus Plan)
February 9, 2023

Pursuant to notice, at its February 9, 2023¹ public meeting, the Zoning Commission for the District of Columbia (the "Commission") deliberated upon the application (the "Application") of The University of the District of Columbia (the "University" or the "Applicant") for a Modification of Consequence to the University's 2020-2029 Van Ness Campus Plan (the "2020 Campus Plan") granted in Z.C. Order No. 20-33 for Part of Lot 812 in Square 1964 (the "Property") located at 4200 Connecticut Avenue, N.W. to expand tennis court hours past sunset. The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the "Zoning Regulations", to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

The Property

1. The Property is located in Northwest Washington, contains an area of approximately 21 acres, and is bounded generally by Yuma Street, N.W. to the north; Connecticut Avenue, N.W. to the east; Van Ness Street, N.W. to the south; and International Court, N.W., and a portion of the International Chancery Complex to the west.
2. The core of the Van Ness Campus is located at its southern end and consists of 10 academic and administrative buildings organized around Dennard Plaza, a large hardscaped plaza that connects many of these buildings. To the east of the campus core, at the intersection of Connecticut Avenue and Van Ness Street, is the student center, adjacent to the Van Ness-UDC Metrorail entrance. North of the campus core are buildings and space devoted to performing arts, including an auditorium, amphitheater, and music, dance, and theater space. Further to the north and west are athletic facilities, which include the athletic center, fields, and tennis courts.

¹ The Commission made a determination that the Application was a Modification of Consequence at its January 26, 2023 public meeting.

Prior Approval

3. Pursuant to Z.C. Order No. 20-33, effective May 6, 2022, the Commission approved the 2020 Campus Plan that governs the use and future development of the University's Van Ness Campus.

Parties and Notice

4. Advisory Neighborhood Commission ("ANC") 3F, in which the Property is located, is the "affected" ANC pursuant to Subtitle Z § 101.8, and automatically a party to the Application. In addition, Van Ness Residents' Association and Van Ness South Tenants' Association were parties to the original proceeding for Z.C. Case No. 20-33.
5. On January 3, 2023, the Applicant served the Application on ANC 3F, Van Ness Residents' Association, and Van Ness South Tenants' Association, the original parties to the proceeding, as well as the Office of Planning ("OP"), and the District Department of Transportation ("DDOT") as attested by the Certificate of Service². (Exhibit ["Ex."] 5 at 4.)

II. THE APPLICATION

6. On November 30, 2022, the Applicant filed an Application requesting a Modification of Consequence to Z.C. Order No. 20-33 to expand tennis court hours past sunset. The tennis courts are located on the northern end of the Van Ness Campus between academic and retail buildings facing Connecticut Avenue to the east and academic buildings to the west and south. The Yuma Gardens Apartments, a parking facility, and the Days Inn are located to the north across Yuma Street, N.W. The tennis courts are enjoyed by both the university community and the general public and were completely resurfaced and improved in 2021. Since the 2020 Campus Plan was approved, the Applicant has received requests from community members to expand the tennis court hours past sunset, particularly in the winter months. (Ex. 2, 5.)
7. The Application explained Condition 19 of Z.C. Order No. 20-33 states, among other things, that the tennis courts may be used between 7:00 a.m. and sunset every day and until 10:00 p.m. during tournaments that have been delayed by inclement weather. The Application proposes to modify Condition 19 to increase the tennis court hours of operation until 8:00 p.m. or sunset, whichever is later. The Applicant stated that the proposed increase will allow for additional playing time in the winter months and more flexibility and use by the community. (Ex. 2, 5.)
8. The Applicant further stated that before filing this Application, it conducted a test to gauge the community impact of expanding the tennis court hours of operation. Specifically, the

² At the initial filing of the Application on November 30, 2022, the Applicant inadvertently failed to serve the Application on the original parties; the Applicant cured this oversight and served the Application on January 3, 2023. (Ex. 5.)

Applicant provided notice to the Zoning Administrator, ANC 3F, and neighboring residences and left the tennis court lights on past sunset over three nights in August 2022, after which the Applicant surveyed neighboring residents. The Applicant received few responses to the survey and only one person surveyed noted that the tennis court lights impacted her home. (Ex. 2, 5.)

9. On February 2, 2023, the Applicant filed a letter in response to feedback on the Application the Commission provided at its January 23, 2023 public meeting. (Ex. 7.) The Applicant stated that it followed up by email with the Van Ness Residents' Association and the Van Ness South Tenants' Association regarding the Application; both organizations acknowledged the Applicant's email but only the former stated that it would coordinate a response. The Applicant noted that both organizations' involvement with the Van Ness Master Campus Plan process was based on concerns unrelated to the use of the tennis courts.
10. The Applicant's response letter also stated that the Applicant was supportive of OP's recommendation to revise the Application to allow the tennis courts to be used until 7:00 p.m. or sunset instead of the Applicant's original request of until 8:00 p.m. or sunset. The Applicant reiterated that it originally proposed until 8:00 p.m. or sunset based on the limited survey responses received following a test it conducted leaving the tennis court lights on until 8:00 p.m. for three nights in August 2022; the survey following the test yielded few responses from neighbors and only one response noting an impact from the tennis court lights. (Ex. 7.)

III. RESPONSES TO THE APPLICATION

11. OP submitted a report on December 30, 2022 (the "OP Report"). The OP Report concurred with the Applicant that the proposal is a modification of consequence. OP stated no objections to the Applicant's request and recommended that the proposal be approved with expanded tennis court hours limited to 7:00 p.m. instead of the requested 8:00 p.m. OP noted that Condition 19 was included in Z.C. Order No. 20-33 in response to the neighboring community's complaints about the tennis court lights being a nuisance. Because the responses to the survey following the Applicant's light test did reveal one complaint, OP believes limiting the tennis court hours of operation is still necessary. Allowing additional time is reasonable when the sun sets early in the evening, but an end time of 7:00 p.m. would be less of a nuisance. (Ex. 4.)

ANC

12. The Vice Chairman of ANC 3F filed a letter stating that the ANC would not take a formal vote on this Application; however, the ANC agrees with OP's recommendation to limit the tennis court hours to 7:00 p.m. instead of the requested 8:00 p.m. (Ex. 6.)

Other Party Responses

13. No responses were submitted to the record from the other parties, Van Ness Residents' Association and Van Ness South Tenants' Association.

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Modifications of Consequence to final orders and plans without a public hearing.
2. Subtitle Z § 703.3 defines a Modification of Consequence as “a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance.” Under Subtitle Z § 703.4, examples of a Modification of Consequence include “a proposed change to a condition in the final order, a change in position on an issue discussed by the Commission that affected its decision, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission.”
3. The Commission concludes that the Application qualifies as a Modification of Consequence within the meaning of Subtitle Z § 703.3 and § 703.4, as a proposed change to a condition in the final order, and therefore the modification can be granted without a public hearing pursuant to Subtitle Z § 703.1.
4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding, in this case ANC 3F, Van Ness Residents' Association, and Van Ness South Tenants' Association.
5. In accordance with the requirements of Subtitle Z § 703.17(c)(2), the Commission established a timeframe for responses from all parties in the original proceeding at its January 26, 2023 public meeting and scheduled the request for deliberations on February 9, 2023. As noted above, ANC 3F did not take a formal vote on the Application but submitted a letter from its Vice-Chairman stating its agreement with OP's recommendations; and neither Van Ness Residents' Association nor Van Ness South Tenants' Association submitted a response to the Application. At its February 9, 2023 public meeting, the Commission proceeded with deliberating on this case.
6. The Commission finds the Applicant's original request to expand the tennis court hours to 8 p.m. or sunset reasonable. The Commission notes OP's recommendation to limit the expanded hours to 7:00 p.m. instead of 8:00 p.m., and ANC 3F's agreement with such recommendation. However, the Commission believes that allowing the general public additional playing time past sunset, particularly in the winter months, is beneficial. Based on neighbors' limited response to the Applicant's survey following the light test, the Commission finds the impacts associated with expanding the tennis court hours to 8:00 p.m. negligible. The Commission encourages modifications to the lighting to make sure it is not a direct bleed into someone's window but concludes that expanding the hours to 8:00 p.m. should not be an issue.

“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP

7. The Commission must give "great weight" to the recommendations of OP pursuant to § 13(d) of the Office of Zoning Independence Act of 1990, effective September 20, 1990, (D.C. Law 8-163; D.C. Official Code §6-623.04 (2001)) and Subtitle Z §405.8. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)
8. The Commission finds OP's recommendation that the Commission approve the Application persuasive and concurs in that judgment. The Commission does not agree with OP's recommendation to limit the expanded tennis court hours to 7:00 p.m. Given the limited response to the Applicant's survey of neighbors following the light test, the Commission agrees with the Applicant's original request to extend tennis court hours to 8:00 p.m.

“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC

9. The Commission must give "great weight" to the issues and concerns raised in a written report of an affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public pursuant to §13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code §1-309.10(d) (2012 Repl.)) and Subtitle Z §406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)
10. ANC 3F did not submit a written report as it did not take a formal vote on the Application; therefore, there is nothing to which the Commission can give great weight. The Commission acknowledges the letter from the ANC's Vice Chairman and does not agree with OP recommendation to limit expanded hours to 7:00 p.m. for the reasons stated above.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the University has satisfied its burden of proof and therefore **APPROVES** the Application's request for a Modification of Consequence to Z.C. Order No. 20-33, subject to the following:

The conditions of Z.C. Order No. 20-33 remain unchanged and in effect, except as follows (deletions shown in **bold** and ~~strikethrough~~ text; additions in **bold** and underlined text):

Condition 19 is hereby revised to read as follows:

19. The University shall offer a membership rate for the use of tennis courts and a daily rate for during open swim at the natatorium for non-University users who desire use of these facilities. The University shall limit hours of operation for the tennis court to 7:00 a.m. and **8:00 p.m.** or sunset, **whichever is later**, every day, except in situations where, during a tournament event, there is delay in the tournament activities due to inclement weather, and the tournament is paused during the inclement weather, and then resumes once the inclement weather has passed. During such situations, the tournament activity may continue past **8:00 p.m. or** sunset but not later than 10:00 p.m.

VOTE (February 9, 2023): 4-0-1 (Peter G. May, Anthony J. Hood, Robert E. Miller, and Joseph S. Imamura to **APPROVE**; 3rd Mayoral Appointee seat vacant, not voting)

In accordance with the provisions of Subtitle Z §604.9, this Order No. 20-33A shall become final and effective upon publication in the *D.C. Register*; that is on May 5, 2023.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

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